

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH.**

Crl. Revision No. 2228 of 2005.

Date of Decision: February 08, 2007.

Narinder Singh

....Petitioner

**through
Mr. Ashok Singla, Advocate**

Versus

State of Punjab

**...Respondent
through
Mr. B.S.Baath, AAG, Punjab with
Mr. HNS Gill, Advocate.**

CORAM:

HON'BLE MR. JUSTICE SURYA KANT.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

SURYA KANT,J.(ORAL)

In this revision petition, challenge is to the order dated 23.8.2005 passed by learned Chief Judicial Magistrate, Sangrur, whereby charge under Section 420 IPC has been framed against the petitioner.

[2]. As per the charge-sheet, the petitioner cheated Major Singh and Harpal Singh sons of Baljit Singh, residents of village Chauran and “dishonestly induced them to deliver Rs.12 lacs” by misrepresenting that he will sell the land of minor Jagwinder Kaur in their favour.

[3]. The facts may be briefly noticed.

[4]. An agreement to sell dated 22.8.2000 (Annexure P-11) was executed by Nirbhay Singh son of Bachan Singh, the petitioner (Narinder

Singh son of Nirbhay Singh), Surjit Kaur widow of Hakam Singh and Jaswinder Kaur d/o Hakam Singh in favour of Major Singh and Harpal Singh sons of Baljit Singh for the sale of land measuring 158 Bighas 4 Biswas. Whereas, the share of the petitioner, out of the total land comes to 43.1/2 Bighas, 11 Bighas 10 Biswas fell to the share of Jagwinder Kaur – minor daughter of Surjit Kaur widow of Hakam Singh. Surjit Kaur, as noticed above, is one of the executant of the agreement to sell. It was stipulated in the agreement to sell that the sale deed in respect of the share of Jagwinder Kaur shall be executed in favour of the vendees after obtaining permission from the court of competent jurisdiction.

[5]. As no sale deed in respect of the share of Jagwinder Kaur-minor was executed in favour of the prospective vendees, they made a complaint which led to the registration of the FIR in question. The said complaint was lodged against all the prospective vendors, out of whom Nirbhay Singh has, however, died.

[6]. In sum and substance, the complaint concludes as follows:-

“This agreement with us, was entered into by Nirmal Singh son of Tara Singh, r/o Sakrodi, Tehsil Bhagwanigarh and Kapil Dev Garg r/o Bhagwanigarh in connivance with the above said persons and these people have received total sale consideration fraudulently and with ulterior motive but they have not executed the sale deed of 11 Bighas and 10 Biswas land, House, Roori and Basti in our name. Possession of the land is with us but possession of the House, Roori and Basti has still not been given to us till date. Total amount of above said

property has already been paid through Kapil Dev Garg to the above said accused. Neither the above said accused have obtained the permission for sale of share of land of Jagwinder Kaur from the court as yet nor they have filed any suit in the court for the same". (Emphasis applied).

[7]. It is an admitted fact that as far as the petitioner's own share out of the total land is concerned, he has already executed the sale deed in favour of the complainants or their father.

[8]. The controversy, however, pertains to the share of minor daughter of Surjit Kaur, namely, Jagwinder Kaur. It is alleged that no permission has been obtained from the Court nor any case for such permission has been filed and, thus, the complainants have been cheated.

[9]. Admittedly, the petitioner is not the natural guardian of the minor – Jagwinder Kaur. He could not have applied or obtained such permission from the Court. Surjit Kaur - one of the accused and mother of minor – Jagwinder Kaur, of course, could have applied for and obtained the said permission, provided that the sale was for the benefit and welfare of the minor. The petitioner could at the best be responsible for execution of sale deed qua his own share, which he has admittedly executed. Thus, no civil or criminal liability can be fastened upon the petitioner for non-performance of the contract qua the share of Jagwinder Kaur – minor.

[10]. The facts on record do not satisfy the conscious of the Court that the agreement to sell in respect of the share of the minor (Jagwinder Kaur) was in her interest. The complainants were aware of the fact that Jagwinder Kaur is a minor and her share could not be sold unless it was for her benefit. That apart, the dispute is purely of civil nature, in respect of

which no criminal proceedings could be apparently launched.

[11]. The impugned FIR, thus, appears to be a result of the police power and an act of arm twisting by the complainants so as to grab the land falling to the share of Jagwinder Kaur - minor. Continuation of the resultant proceedings would obviously be an abuse of process of law.

[12]. Consequently, this petition is allowed and the impugned order dated 23.8.2005, whereby charges under Section 420 IPC have been framed against the petitioner, is set aside.

[13]. Mr. Baath, learned AAG, Punjab, however, has pointed out that during the course of investigation, Surjit Kaur and Jaswinder Kaur, who were co-accused of the petitioner, have revealed that the petitioner has taken away a substantial part of the sale consideration qua their shares as well and has not paid the same to them.

[14]. If that is so and if Surjit Kaur and her daughter Jaswinder Kaur have any grievance against the petitioner, it will be open to them to take appropriate legal action against the petitioner and the observations made herein above shall have no effect or bearing on the same.

Disposed of.

February 08, 2007.
dinesh

(SURYA KANT)
JUDGE